

VZCZCXRO2211
PP RUEHAG
DE RUEHRO #2724/01 2701723
ZNY CCCCC ZZH
P 271723Z SEP 06
FM AMEMBASSY ROME
TO RUEHC/SECSTATE WASHDC PRIORITY 6080
INFO RUCNMEM/EU MEMBER STATES COLLECTIVE PRIORITY
RUEHBY/AMEMBASSY CANBERRA PRIORITY 0839
RUEHMD/AMEMBASSY MADRID PRIORITY 1746
RUEHOT/AMEMBASSY OTTAWA PRIORITY 1723
RUEAHL/DEPT OF HOMELAND SECURITY WASHINGTON DC PRIORITY
RUEAWJA/DEPT OF JUSTICE WASHDC PRIORITY
RULSDMK/DEPT OF TRANSPORTATION WASHDC PRIORITY
RHMFISS/TSA HQ WASHINGTON DC PRIORITY

C O N F I D E N T I A L SECTION 01 OF 02 ROME 002724

SIPDIS

SIPDIS

USEU BRUSSELS FOR MORENSKI AND NUTTER

E.O. 12958: DECL: 09/27/2016

TAGS: [ASEC](#) [EAIR](#) [PTER](#) [AORC](#) [ICAO](#) [KTIA](#) [IT](#)

SUBJECT: PASSENGER DATA SHARING VIEWS AS OLD AGREEMENT
EXPIRES

REF: STATE 132268

Classified By: ECMIN T. DELARE AS PER E.O. 12958 FOR REASONS 1.4 (B) AND (D).

11. (C) SUMMARY: Italy's privacy authority reports EU member state privacy authorities are working toward a new U.S.-EU agreement on Passenger Name Records (PNR) to replace the current one expiring September 30. The new agreement reportedly will not differ in substance from the existing agreement. If the new agreement is not in place October 1, EU member states reportedly will continue to permit the airlines to transmit data as they do now to the USG. END SUMMARY.

MEETING WITH ITALIAN DATA PROTECTION AGENCY

12. (SBU) Econ Counselor met September 11 with Giovanni Buttarelli, Secretary General of Garante per la Protezione dei Dati Personali (GPDP), the Italian data protection agency. Econ Counselor observed that with the ongoing threat to trans-Atlantic and other air travel, the Government of Italy (GOI) surely shares USG concerns to keep civilian air travel safe. In that regard, she noted that the current U.S.-EU agreement authorizing transfer/sharing of passenger name records (PNR) would expire September 30. She asked Buttarelli for GPDP's views on the likelihood of a new agreement being in place October 1.

13. (C) Buttarelli said he and representatives of other EU data protection agencies (DPAs) had been in close contact and that their common goal was for an agreement to be in place October 1. To meet this tight deadline, EU member states had decided not to renegotiate or revise the content of the current agreement, even though there were some aspects of it that member states would like to change in future renegotiations. In addition, the consensus among EU privacy authorities was that any new PNR agreement needed to contain the same level of privacy guarantees (for protection of individual privacy data) as the current agreement.

14. (C) EU DPAs were also concerned about the formal legal modalities of the agreement. Questions include the need for EU parliamentary and/or EU Court of Justice involvement, and the nature of the agreement as either self-executing (approvable on the EU Commission level, with no need to refer to member states), or requiring member state review.

¶5. (C) If member state review is required, Buttarelli clarified that in Italy the GPDP, rather than the Italian Parliament or Council of Ministers, would take the decision to approve, or not.

¶6. (C) Econ Counselor welcomed Buttarelli,s pragmatic approach but wondered what would happen practically speaking on October 1, should Italy not have legal means for air carriers to provide PNR data to the USG. Buttarelli avoided an ironclad assurance, but said the GOI would allow the airlines to continue data transfer to the USG, under the terms and conditions of the current agreement, until such time as a new agreement was in place.

EU DISSATISFACTION WITH CURRENT AGREEMENT

¶7. (C) Buttarelli mentioned several times that Italy and other EU member states continue to be dissatisfied with the current U.S.-EU PNR agreement. He cited, in particular, the question of proportionality and a reported addendum concerning the provision of medical data (regarding avian influenza infection) to USG authorities. He stated that Italy would pursue these and other substantive points in the 2007 review/renewal of the current agreement.

DHS PNR WORKSHOP

¶8. (U) Buttarelli also brought up DHS,s invitation to attend a workshop in Washington, DC on PNR, passports, and biometric identification November 26-28. Embassy offered to set appointments for Butarelli on PNR at the margins of the

ROME 00002724 002 OF 002

workshop.

COMMENT

¶9. (C) Some EU observers consider Italy,s privacy authority as the intellectual center of EU privacy policy. Buttarelli is well and favorably known to the Embassy for his policy grasp and candid assessments of EU privacy policy direction over the recent past. We believe part of his good will derives from our awarding him an IVP grant in the mid-nineties, which gave him the opportunity to observe how the USG protects privacy data. We suggest Washington agencies might also consider this approach with other influential member state experts, especially in the run-up to the 2007 review of the substance of the current U.S.-EU agreement. END COMMENT.

LATE NOTE

¶10. (C) Given the imminence of the September 30 expiry of the current U.S.-EU agreement, Emboff called Buttarelli September 27 for an up-date. Buttarelli, just returned from discussions in Brussels, expected EU consensus September 28 on &a temporary solution until 2007.8 Depending on the agreement,s final form, Buttarelli &could not exclude confusion8 in individual member states. (One possible point of confusion he identified was whether the agreement would be self-executing, or not.) However, he said specifically he did not think &there would be any blocks8 to sharing data. END LATE NOTE.
SPOGLI